REMARKS

Support for Claim Amendments

The instant amendment seeks solely to conform the scope of claims 1-10 to previously presented claims 11-19, to remove unnecessary features of the instant claims 1-10, and to insure that instant claim 8 comports in scope with instant claim 1. Support for this amendment may be found, for example, in the instant specification at page 6, lines 7-12. Upon the entry of the present amendment, claims 1-10 will stand pending in the instant application, with claims 8-10 being withdrawn from consideration by the Examiner. No new matter is added by the present amendment.

Summary of Personal Interview with the Examiner

On August 28, 2006, Examiner Satya Sastri and Applicants' representative, Mr. Andrew Merriam, conducted a personal interview to further prosecution in the instant application. During the interview, the parties discussed the propriety of the rejections outstanding on the record. The Applicant wishes to thank the Examiner for extending the courtesy of a personal interview.

Response to Restriction Requirement and Request for Rejoinder

Restriction to one of the Group I composition, claims 1-7 and 11-17; the Group II method of using the composition, claims 8-9 and 18-19; and the Group III product claim 10 has been required under 35 U.S.C. section 121. The Applicants have elected to prosecute Group I, claims 1-7 and 11-17, with traverse.

Groups I and II

The restriction is improper and the claims of Groups I and II, claims 1-9 and 11-19, should be rejoined because, as is well settled, a composition and its method of use do not define patentably distinct inventions. See *In re Ochial*, 71 F.3d 1565 (Fed. Cir. 1995). Applicants have insured that instant Claim 8 includes all of the limitations of instant Claim 1. Accordingly, Applicants hereby respectfully request the rejoinder of Group I, claims 1-7 and 11-17, and Group II, claims 8-9 and 18-19 upon an indication of the allowability of the instant composition claims. See MPEP 8.21.04, 1st two paragraphs.

Applicants respectfully request the reconsideration and withdrawal of all restriction requirements of the instant claims.

Obviousness Type Double Patenting

Claim 1 stands provisionally rejected under the judicially created doctrine of obviousness type double patenting over U.S. application serial no. 11/053,831, to Adamo et al. The Applicants respectfully traverse these rejections.

Under the current circumstances, Applicants will not agree to file a terminal disclaimer. The filing date of the instant application (March 23, 2004) predates the filing date of U.S. Patent Publication 2005/0214534A. Adamo et al. has not been allowed and as it has a later filing date than the instant application. Accordingly, when the "provisional" obviousness-type double patenting (ODP) rejection is the only rejection remaining in the instant application, the examiner should withdraw the ODP rejection and permit the instant application to issue as a patent without a terminal disclaimer. See MPEP 804.I.B.1.

The Applicants respectfully request the reconsideration and the withdrawal of all provisional obviousness type double patenting rejections.

Please be advised that, contrary to the position taken in the rejection, U.S. application serial no. 11/053,831 and the instant application are not copending applications.

Regarding any potential interference, the filing date of the instant application (March 23, 2004) predates the filing date of U.S. Patent Publication 2005/0214534A, to Adamo et al., the instant Applicants are the first inventors of the instantly recited invention, and there is no evidence on the record or known to Applicants which would suggest that the Adamo et al. application should have a date of invention under 35 USC section 102(g) that is senior to that of the instant application. Accordingly, Adamo et al. is not available as art under 35 U.S.C. section 102(e), (f) or (g) or under 35 U.S.C. 103(a).

The comment in paragraph 11 of the Office Action is not a statement of rejection and does not address any judicially recognized ground of rejection. The instant application has a filing date prior to that of Adamo et al., which itself is not

a granted patent. Accordingly, the statement is improper and Applicants respectfully request that this statement be withdrawn.

Rejections Under 35 USC §103

Claims 1-7 and 11-17 stand rejected under 35 USC section 103(a) as being obvious over Arkens et al.,U.S. 5,977,232, of record, in view of Mudge et al., 4,610,920. Applicants respectfully traverse this rejection.

The rejection admits that Arkens fails to disclose any emulsion polymer comprising, as copolymerized units, greater than 30% by weight, based on the weight of said emulsion polymer solids, ethylenically unsaturated acrylic monomer comprising a C_5 or greater alkyl group, as instantly recited.

In addition Arkens teaches away from Mudge and their combination is improper. Arkens recites formaldehyde free curable aqueous compositions, that are substantially free from formaldehyde CH_2O and, as a result of drying and/or curing, release less than 1 ppm of CH_2O, based on the weight of the composition. See the Abstract and column 2, lines 44-49 of Arkens. Please refer to the Declaration under Rule 132 of Dr. Barry Weinstein at paragraph 5.

Mudge fails to recite compositions that can be substantially formaldehyde free, and provides instead binders that at a minimum release 354 ppm of CH_2O, based on the weight of the composition. Please refer to the Declaration under Rule 132 of Dr. Barry Weinstein at pages 2-4, paragraphs 6, 7, and 8. Even ascribing a very broad interpretation to Mudge, there is simply no suggestion of any binder that can even remotely be considered substantially free from formaldehyde CH_2O. Please refer to the Declaration under Rule 132 of Dr. Barry Weinstein at pages 4-5, paragraph 9.

The combination urged in the rejection would introduce substantial CH_2O into the compositions of Arkens and would thereby destroy the operability of Arkens. This is improper and the combination therefore is not suggested to the ordinary skilled artisan. See MPEP 2143.01.

The Applicants respectfully request the reconsideration and the withdrawal of all rejections over Arkens in view of Mudge.

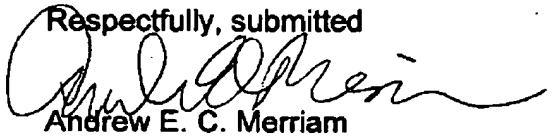
CONCLUSION

Based on the foregoing, the instant claims are believed to be in current condition for allowance. An early and favorable response is earnestly solicited. If the examiner has any questions problems concerning the instant application, he is urged to contact the undersigned at the number given below.

Concurrently herewith, Applicants have filed a Declaration under 37 C.F.R. Rule 132 of Dr. Barry Weinstein.

No fees are believed due. In the event that any fees are found owing, please charge deposit account no. 18-1850.

Respectfully, submitted



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